IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 22881 of 2004

Between:

1. M. Papaiah Chowdary,

S/o. Late M. Raja Rao,
R/o. 10-4-55, Mamillagudem,

Khammam, Khammam Dist.

2. M. Vamshi Mohan,

S/o. M. Raja Rao,
R/o. 10-4-55, Mamillagudem,

Khammam, Khammam Dist.

....PETITIONERS

AND

1. The Commissioner (ROM),

O/o. Chief Commissioner of

Land Administration,
A.P., Hyderabad.

2. The Director of Settlements,

Govt of A.P., Hyderabad.

3. The Settlement Officer,

Bhadrachalam, Khammam District.

4. The Mandal Revenue Officer,

Bhadrachalam, Khammam District.

5. Smt. Ludramma, D/o. Late Rajamma,
R/o. Tatagudi Centre, Bhadrachalam,

Bhadrachalam Mdl, Khammam District.

...RESPONDENTS

* * *

ORDER:

This writ petition has been filed by M.Papaiah Chowdary and M.Vamshi Mohan with a prayer to issue a writ, order or direction, more particularly one in the nature of writ of Certiorari calling for records in proceedings L1/414/99 of the Commissioner (ROM), office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad-first respondent and quash the order dated 07.09.2004 passed therein.

2. The brief facts of the case leading to filing of the writ petition are:-

Mallavarapu Jojaiah and Dasari Rajamma filed an application for grant of patta under the Andhra Pradesh (Scheduled Areas Ryotwari Settlement) Regulation, 1970 (for short 'the Regulation 2/1970'). M.Jojaiah claimed an extent of 1-20 hectares comprising S.No.2/2 whereas D.Rajamma claimed an extent of 2-48 hectares comprising S.No.2/3. Initially, their claims came to be negatived by the Settlement Officer, Bhadrachalam-third respondent. Thereupon, they filed an appeal before the Special Commissioner and Director of Settlements, A.P., Hyderabad-second respondent and the same came to be remanded to the Settlement Officer, Bhadrachalam. The order dated 31.12.1984 passed by the Director of Settlements in A.P.No.307/79 reads as follows.

> " I have perused the documents discussed and gone through the order of the Settlement Officer. It looks as though that the appellant's lands are situated in the adjoining village Purushothapatnam but surveyed as part of Gundala village, that in the former village they are shown in Government lands held on patta by the appellant but in the ex-estate of Gundala village the very lands are recorded otherwise is banjar. This

> conclusion is all the more necessary when the appellant states that he is in possession of the lands only at once place and he rightly feels that they are in the village Purushothapatnam and he is the owner that they are not in Gundala village for which an enquiry was held by the Settlement Officer inspite of this having been raised the issue has not been examined well by the Settlement Officer for a proper finding.
>
> I am satisfied that there is a strong case for remanding the matter once again to the Settlement Officer inspect the lands and also give a finding whether or not the same block of land is shown in the village limits of Gundala and Purushothapatnam and if no enquiry *de novo* into the claims of the appellant for a proper finding in accordance with law.
>
> In the result the appeal is partly allowed and remanded."

On remand the Settlement Officer allowed the claim of M.Jojaiah and granted ryotwari patta in respect of both the R.S. numbers i.e., 2/2 and 2/3. Dasari Rajamma died and her legal representatives filed an appeal under Section 9(3) of the Regulation 2/1970 against the order of the Settlement Officer, Bhadrachalam passed in Case No.6026 of 1978 dated 11.4.1985. The Special Commissioner and Director of Settlement allowed the appeal and granted ryotwari patta in favour of K.Lurdhamma in respect of R.S.No.2/3 admeasuring 2-48 hectares. The writ petitioners being legal representatives of M.Jojaiah challenged the order passed by the Special Commissioner and Director of Settlement, A.P., Hyderabad-second respondent by filing second appeal before the Commissioner (ROM), Office of the Chief Commissioner of Land Administration, A.P., Hyderabad- first respondent and the same ended in dismissal. Hence, this writ petition.

3. Fifth respondent filed counter-affidavit.

4. Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 to 4 and learned counsel appearing for the 5th respondent.

5. Learned counsel for the petitioners challenged the order dated 07.09.2004 of the Commissioner (ROM), Office of the Chief Commissioner of Land Administration, A.P., Hyderabad-first respondent on two grounds. *Firstly*, the appeal filed by 5th respondent before the Special Commissioner and Director of Settlement is barred by limitation. *Secondly*, 5th respondent failed to prove her

possession over the land for a period of 8 years for entitlement of ryotwari patta as provided under Section 7 of Regulation 2 of 1970.

6. With regard to the first contention of the learned counsel for the petitioners, the Special Commissioner and Director of Settlement entertained the appeal after condoning the delay. This can be noticed from the order passed by the Special Commissioner and Director of Settlement. The relevant portion of the said order reads as follows:

> " The counsel further argued that after remand, the case was taken up by the Settlement Officer, Bhadrachalam and after enquiry and spot inspection with reference to the survey plans and survey registers found that the suit lands originally situated in Purushothampatnam village but surveyed in Gundala village during survey operations and that the suit land is a government 2-A land and granted ryotwari patta in his order dt.11.4.1985, in Case No.6026 of 1998 to Mallavarapu Jogaiah only not only for the lands held by him in R.S.No.2/2 hectares 1-20 but also for the land held by the other appellant Dasari Rajamma in R.S.No.2/3 hectares 2-48 on the ground that the claimant has established his continuous possession and occupation for a period of 8 years prior to 1.7.71. Dasari Rajamma came to know about grant of patta in favour of Mallavarapu Jogaiah for the land also held by her in R.S.No.2/3 and filed an appeal before the Director of Settlements A.,P., Hyderabad and after hearing the case on 25.5.89, the appeal was admitted and numbered as A.P.54/89. The respondent M.Jogaiah died during the pendency of appeal and his son M.Rajarao was brought on record as the legal heir and he filed an appeal against the order of the Director of Settlement, A.P., Hyderabad in admitting the appeal in A.P.54/89 before the commissioner of Survey, Settlements and Land Records, A.P., Hyderabad. During the pendency of this appeal, she also died and her daughter Smt.K.Lurdhamma was brought on record as the legal heir. The commissioner in his order dt.26.10.94 in file No.L1/607/89 remanded the case to the Director of Settlements to decide the case after giving due notice to all the parties concerned firstly on the point of admissibility and if admitted on merits."

It is explicit from the above order that the appellate authority after condoning the delay entertained the appeal. Therefore, the contention of the learned counsel for the petitioner has no substance.

7. The second contention raised by the learned counsel for the petitioners is that Dasari Rajamma was not in possession of land for a period of 8 years continuously prior to 01.07.1971 and thus, she is not entitled for ryotwari patta.

Both the appellate authorities *viz*., second appellate authority-Commissioner (ROM)-first respondent and first appellate authority-Special Commissioner and Director of Settlement-second respondent, taking into account the material brought on record, rejected the said contention by giving cogent and convincing reasons. Therefore, I do not see any reason to differ with the findings recorded by both the appellate authorities.

8. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Date: 07th December 2005.

BSB